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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/642,966

08/18/2003

Paul Slovick

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EXAMINER

MAI, TRI M

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/642,966	<b>Applicant(s)</b> SLOVICK, PAUL	
	<b>Examiner</b> Tri M. Mai	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 38-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

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1. In the drawing of 06/29/07, applicant is requested to delete the rectangular box opposite behind the tire support (opposite of portion 170).

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the circular extent of the material being 360 degrees (cl. 47), the electric winch (cl. 45) must be shown must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. Claim 48 is objected to for being a duplicate of claim 47.

4. "means for allowing" has no antecedent basis in the specification.

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5. Claims 40-43, and 51 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6631834, or in the alternative, over the claims of U.S. Patent No. 6631834 in view of Jozefczak (5186371). The claims of U.S. Patent No. 6631834 teach an apparatus with a swing arm, a pivot arm pivotally attached at two pivoting points, a tire support, the lug, and the material extending pass the lug.

To the degree it is argued that the claims do not teach the pivoting about horizontal and vertical axes, it would have been obvious to one of ordinary skill in the art provide the tire support pivotable about vertical and horizontal axes as taught by Jozefczak to enable the tire to be load/unload easily.

6. Claims 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the rejection of U.S. Patent No. 6631834, as set forth above in paragraph 5, and further in view of either Bianchini (5456564) or Chang et al. (5785351). Claim 1 of U.S. Patent No. 6631834 teaches a winch but does not mention a cable. Either Bianchini or Chang teaches that it is known in the art to provide a cable for an electrical winch. It would have been obvious to one of ordinary skill in the art to provide an electrical winch with cable as taught by either Bianchini or Chang to assist moving the apparatus easily.

7. Claims 47, 48, 49, and 52 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6631834 as set forth above in paragraph 5, and further in view of Kennedy et al. (1864829). Kennedy teaches that it is known in the art to provide a circular spinner (see figures 14 and 15. It would have been obvious to one of ordinary skill in the art to provide the circular spinner as taught by Kennedy to provide the desired mounting material for the tire.

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8. Claims 38, 39, and 50 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 6631834, as set forth above in paragraph 5, and further in view of Hansen. Hansen teaches that it is known in the art to provide a protruding portion at 56 that extend less than 360. It would have been obvious to one of ordinary skill in the art to provide the angle as claimed to provide the desired structural support for the spinner.

9. Claims 40-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The swing arm and the pivot arm each having a proximal and a distal end. It is unclear what "said proximal end" and "distal end" are referring to.

Regarding claim 43, "means for allowing" is not a proper 112, 6<sup>th</sup> paragraph recitation of means plus function. This recitation also has no antecedent basis in the specification.

10. Claims 38-43, and 45-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newbill (6659318) in view of Hansen. Newbill teaches an apparatus having a swing arm movable about vertical axis 8, a pivot arm 12 movable about a horizontal axis 15, a tire support affixed to the pivot arm proximate the to the distal end of the pivot arm.

Hansen teaches that it is known in the art to provide a mounting having a material passing a lug (col. 4, ln. 35). It would have been obvious to one of ordinary skill in the art to provide a mounting having material longer than a lug in Newbill as taught by Hansen to provide an alternative mounting means.

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To extent the material about 240 and 360 degrees would have been obvious to provide the desired support for the tire.

11. Claims 40-43, and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newbill (6659318) in view of JP 258755 or JP 9-315351 or Kennedy. Either JP '755 or JP '351 teaches that it is known in the art to provide a mounting having material longer than a lug. It would have been obvious to one of ordinary skill in the art to provide the circular tire spinner as taught by JP '755 or JP '351 to provide an alternative mounting means.

Kennedy also teaches a circular spinner, It would have been obvious to one of ordinary skill in the art to provide a circular spinner as taught by Kennedy to provide an alternative mounting means.

12. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Newbill rejection, as set forth in paragraphs 11 and 12, and further in view of either Bianchini (5456564) or Chang et al. (5785351). Either Bianchini or Chang teaches that it is known in the art to provide a cable for an electrical winch. It would have been obvious to one of ordinary skill in the art to provide an electrical winch with cable as taught by either Bianchini or Chang to assist moving the apparatus easily.

13. Claims 38-43, 45, 46, and 50-53 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Jozefczak et al. in view of Hansen. Jozefczak teaches a tire support 20 capable of movement about horizontal and vertical axis. Jozefczak meets all claimed limitations except for the support with a tire spinner. Hansen teaches that it is known in the art to provide a mounting structure with a spinner and lug. It would have been obvious for one of ordinary skill in the art to provide a mounting structure of a spinner and a lug as taught by Jozefczak to provide

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the desired mounting structure for the carrier. With respect to the extent of the circular material, it would have been obvious for one of ordinary skill in the art to provide have the spinner extending between 240 and 255 to provide the desired support for the spinner.

14. Claims 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Jozefczak rejection as set forth above, and further in view of Kennedy. Kennedy teaches that it is known in the art to provide a circular spin that extend at 360 degrees. It would have been obvious to one of ordinary skill in the art to provide a circular spin extending at 360 degrees to provide the desired support for the tire.

15. Claims 40-43, 47-49, and 51-53 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Jozefczak et al. in view of either of JP 8-258755 or JP 9-315351. Jozefczak teaches a device with a swing arm 20, a pivot arm 28, and a mounting for the tire on the support. Jozefczak meets all claimed limitations except for the mounting for tire having a spinner as claimed. Either of JP 8-258755 or JP 9-315351 teaches that it is known in the art to provide a spinner as claimed (see drawings). It would have been obvious to one of ordinary skill in the art provide a spinner in Jozefczak et al. in view of either of JP 8-258755 or JP 9-315351 to mount the tire easily.


16. Applicant's arguments have been fully considered but they are not persuasive. Applicant is noted of the answer provided in the previous Office Action. The new claims do not read over the prior art as set forth above.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai   
Primary Examiner  
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